

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DALLAS SWANK, et al.,

Plaintiffs,

v.

DEPUY SYNTHES SALES INC., et al.,

Defendants.

CASE NO. C20-1373-LK-BAT

**ORDER DENYING PLAINTIFFS’  
MOTION FOR  
RECONSIDERATION AND  
ADDRESSING ONGOING  
DISCOVERY DISPUTES**

The Court directed the parties to file a LR 37 submission about any ongoing discovery disputes because plaintiffs moved for reconsideration of an order denying a motion to compel production. Dkt. 35; Dkts. 27, 34, 39, 40. There is no question that plaintiffs sought in their requests for production discovery limited to “the type of Agility Total Ankle Prosthesis that is the subject of this case.” Dkt. 23-2, at 15. What plaintiffs now seek through the backdoor of a motion for reconsideration is much more: “Plaintiffs’ document request should not be limited to the device Mr. Swank received. The fact that Mr. Swank received a device called the Agility Ankle and that DePuy has another device called the Agility LP suggests at least some similarity between the devices worthy of investigation.” Dkt. 40, at 2. Plaintiffs therefore concede that that they are currently seeking far more than what was sought in their requests for production.

Plaintiffs want to “investigate” any kind of ankle device manufactured by defendants regardless

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1 of whether any of those components were implanted in plaintiff Mr. Swank. Dkt. 40, at 1–2.

2 The Court finds that plaintiffs’ motion for reconsideration and the LR 37 submission  
3 demonstrate that plaintiffs’ current requests for production are overbroad and seek irrelevant  
4 information. Defendants have thus far responded to plaintiffs’ requests for production with all  
5 information relevant to “the type of Agility Total Ankle Prosthesis that is the subject of this  
6 case.” Dkt. 23-2, at 15; *see* Dkt. 40, at 2–4. The Court therefore **DENIES** plaintiffs’ motion for  
7 reconsideration and **DENIES** plaintiffs’ requests for additional discovery set forth in the LR 37  
8 submission. Dkts. 35, 40.

9 DATED this 19th day of May, 2022.

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12 BRIAN A. TSUCHIDA  
13 United States Magistrate Judge  
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